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Morton Bahr
President

Via Fax

December 3, 2004

The Honorable Michael K. Powell, Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Dear Chairman Powell:

Re: Ex Parte. WC Docket No. 04-313. Unbundled Access to Network Elements

Unbundling was intended to "jump-start" competition and serve as a transition to facilities-based competition. In the eight years since passage of the Telecommunications Act of 1996, local competition is thriving among many types of providers, including cable companies, competitive local exchange carriers (CLECs), wireless carriers, and Internet providers. Technological developments such as Voice over Internet Protocol (VoIP) promise even more competitive alternatives.

As the Commission once again seeks to establish sustainable unbundling rules and set impairment standards, it must recognize that customers have a wide range of choice in the local voice market. According to the Commission's most recent data, as of June 2004 incumbent local exchange carriers provided less than half (151.8 million, or 44 percent) of the 338.4 million local connections through wireline and wireless technologies. Unwarranted unbundling policies are not necessary to ensure real consumer choice.

Moreover, excessive unbundling requirements at below-cost TELRIC prices deter investment, cost jobs, and represent poor public policy. Over the past three years, the telecommunications and computer electronics industries have lost more than 800,000 jobs, according to the Bureau of Labor Statistics. CWA-represented employees in the telecommunications industry have seen more than 95,000 good union jobs disappear in the last two years alone. Our Bell company employers cut capital expenditures by almost $30 billion from 2001-2003.

Recent decisions by the Commission to remove unbundling requirements over broadband services have sparked a new wave of investment in broadband networks. SBC, Verizon and BellSouth have all announced plans to accelerate deployment of advanced fiber networks, which will result in good union jobs for telecommunications workers. SBC has said it will accelerate its fiber-to-the-node (FTTN) deployment to 18 million homes in 2-3 years. Verizon has committed to passing 1 million homes and businesses with build-out of fiber-to-the-premise (FTTP). BellSouth has increased the number of homes it expects to equip with advanced fiber platform by 40 percent in 2005.

Therefore, with regard to broadband services, the Commission must "stay the course" in the current TRO proceeding and not impose legacy regulations on new technologies. To reverse the Commission's longstanding hands-off policy for broadband would have a chilling effect on the investment in fiber-based networks. In a space where numerous technologies (e.g. cable, wireless, satellite, power lines and wireline) have entered or are planning to enter the market and billions of dollars are being invested, there is no need for regulatory intervention. Therefore, the Commission should reject calls to mandate unbundled access to packetized loops, reinstitute line sharing or require the unbundling of dark fiber.

The new investments by Bell companies in fiber networks promise to bring innovative services and greater choice for voice, video and data to customers. This new investment also protects jobs for CWA members. It is imperative that the Commission makes clear once and for all that there will be no unbundling of broadband facilities.

Second, for the legacy network, unbundling requirements should be narrowly tailored and limited to only those markets where genuine impairment exists. Specifically, given the extensive deployment and reach of both circuit and packet switches, there should be no unbundling of switching to serve any customers. In addition, any required transition plan for the embedded base of customers now served using unbundled switching should be limited.

For loops and transport, the Commission should not establish a test that is either route or building specific. Such an approach would be burdensome and administratively infeasible. Instead, as numerous parties have suggested, the Commission should evaluate wire centers based on the number of business lines contained therein. While CWA does not suggest any particular threshold levels for the Commission to adopt, it does observe that if the threshold number of lines is set excessively high, only minimal relief from loop and transport unbundling requirements will result. As with other unbundled

elements, continued access to unbundled loops and transport elements where there is no impairment deters investment.

Third, in markets that are already robustly competitive, the Commission should not require access to unbundled network elements. Additionally, the "flipping" of in-place special access services to combinations of unbundled network elements cannot be sanctioned under the guise of impairment. Since carriers are using special access today in providing service to customers, there can be no credible argument that there is impairment.

CWA encourages the Commission to further the universal, affordable availability of advanced telecommunications networks and services by focusing on the future, rather than attempting to resurrect the overturned rules of the past eight years. With the explosive growth of wireless services and cable telephony and the technological opportunities enabled by broadband services, the prospects of competitive choice for customers have never been brighter.

We must once again make the United States communications system the envy of the world, rather than 13th in residential broadband. As the Commission crafts sustainable unbundling rules, it must ensure that its policies encourage investment, create good jobs for telecom workers, and promote universal, affordable availability of high-speed advanced networks.

Thank you for your consideration.

Sincerely,

Morton Bahr
President

cc: The Honorable Michael Copps
The Honorable Jonathan Adelstein
The Honorable Kathleen Abernathy
The Honorable Kevin Martin